

1 Mark D. Brutzkus - Bar No. 128102
Jeffrey A. Kobulnick - Bar No. 228299
2 Michael A. Bernet - Bar No. 306657
BRUTZKUS GUBNER
3 21650 Oxnard Street, Suite 500
Woodland Hills, CA 91367
4 Telephone: (818) 827-9000
Facsimile: (818) 827-9099
5 Email: mbrutzkus@bg.law
jkobulnick@bg.law
mbernet@bg.law
6

7 Attorneys for Defendant, 3072541 CANADA INC.

**UNITED STATES DISTRICT COURT
CENTRAL DISTRICT OF CALIFORNIA**

11 AL PEREIRA,
12 Plaintiff,
13 v.
14 3072541 CANADA INC.; and DOES
15 1-10 INCLUSIVE
Defendants.

Case No. 2:18-CV-02622-RGK-JC

**DECLARATION OF JEFFREY A.
KOBULNICK IN SUPPORT OF
DEFENDANT'S MOTION TO STAY
PROCEEDINGS**

Hearing Date: July 2, 2018
Time: 9:00 a.m.
Courtroom: 850 (Roybal)

1 **DECLARATION OF JEFFREY A. KOBULNICK**

2 I, Jeffrey A. Kobulnick, hereby declare:

3 1. I am an attorney licensed to practice before all courts of the State of
4 California and am a partner with the law firm of Brutzkus Gubner, counsel for
5 Defendant, 3072541 CANADA INC. (“Defendant”), in the above-entitled matter.

6 2. I have personal knowledge of the matters set forth herein, either as a
7 direct participant in the matters described, or in my capacity as one of the attorneys
8 responsible for the handling of this case on behalf of Brutzkus Gubner. As to those
9 matters, my knowledge is based upon a review of the files maintained by Brutzkus
10 Gubner in its regular course of business. I am familiar with the manner in which those
11 files are created and maintained. If called and sworn as a witness, I could and would
12 competently testify to the matters set forth herein.

13 3. I make this Declaration in support of Defendant’s Motion to Stay
14 Proceedings (the “Motion”).

15 4. My firm represented Defendant and Kendall Jenner Inc. in an identical
16 action (i.e., involving the same parties and the same claim) filed by Plaintiff in the
17 Southern District of New York, assigned Case No. 1:17-cv-6945. Prior to the time
18 that Plaintiff voluntarily dismissed that case, Defendant and Kendall Jenner Inc.
19 incurred no less than \$13,427.33 in attorneys’ fees and costs in connection with
20 defending that case. Copies of the billing statements that my firm sent to Defendant,
21 and which Defendant paid, totaling \$13,427.33, for work performed in connection
22 with Case No. 1:17-cv-6945, can be lodged with the Court upon request.

23 5. Because the first action, Case No. 1:17-cv-6945, filed in the Southern
24 District of New York, was dismissed at such an early stage, no work had yet been
25 performed that could be used again in this case (e.g., discovery responses, expert
26 materials, etc.). In other words, all of the work performed in the first case is useless to
27 this action, and if this case proceeds any further, and even if the parties attempt
28 settlement discussions again, Defendant will have no choice but to incur additional

1 | attorneys' fees and costs.

2 6. Pursuant to Local Rule 7-3, on May 24, 2018, my associate, Michael A.
3 Bernet, Esq., met and conferred with opposing counsel regarding the instant motion.
4 Attached hereto as **Exhibit 1** is a true and correct copy of the e-mail exchanges with
5 opposing counsel, on which I am copied, reflecting same.

6 I declare under penalty of perjury under the laws of the United States of
7 America that the foregoing is true and correct.

8 Executed on June 4, 2018 at Los Angeles, California.

/s/ Jeffrey A. Kobulnick

JEFFREY A. KOBULNICK

Exhibit 1

Michael A. Bernet

From: Michael A. Bernet
Sent: Thursday, May 24, 2018 2:05 PM
To: 'Joe Dunne'
Cc: 'Imran Vakil'; 'Richard Liebowitz'; Jeffrey A. Kobulnick; Melody L. Evans; Evelyn Chun
Subject: RE: Pereira: Motion to Suspend Proceedings (4293.019)

Joe,

Thank you for speaking with me over the phone a few moments ago. This will confirm, as we agreed, that we have now completed our meet and confer obligations under Local Rule 7-3. You agreed with me that the California and New York cases both involve the same parties and the same claim, but we were unable to resolve our differences with respect to how to avoid the motion. Accordingly, Defendant will proceed with filing the motion. As we agreed, we will notice the hearing for July 2, 2018, which you said was fine on your end.

Best regards,
Michael

From: Michael A. Bernet
Sent: Wednesday, May 23, 2018 10:04 AM
To: 'Joe Dunne' <JD@liebowitzlawfirm.com>
Cc: Imran Vakil <ivakil@nexiolaw.com>; Richard Liebowitz <RL@liebowitzlawfirm.com>; Jeffrey A. Kobulnick <jkobulnick@bg.law>; Melody L. Evans <mevans@bg.law>; Evelyn Chun <echun@bg.law>
Subject: RE: Pereira: Motion to Suspend Proceedings (4293.019)

Ok, I will call you then.

From: Joe Dunne <JD@liebowitzlawfirm.com>
Sent: Wednesday, May 23, 2018 9:57 AM
To: Michael A. Bernet <mbernet@bg.law>
Cc: Imran Vakil <ivakil@nexiolaw.com>; Richard Liebowitz <RL@liebowitzlawfirm.com>; Jeffrey A. Kobulnick <jkobulnick@bg.law>; Melody L. Evans <mevans@bg.law>
Subject: Re: Pereira: Motion to Suspend Proceedings (4293.019)

Yes. 4:30 (NY Time) tomorrow.

Joe Dunne, Esq
Liebowitz Law Firm, PLLC
11 Sunrise Plaza, Suite 305
Valley Stream, NY 11580
T: 516-233-1660
F: 516-612-2740
E: JD@liebowitzlawfirm.com

NOTICE: This email message and all attachments transmitted with it are intended solely for the use of the addressees and may contain legally privileged, protected or confidential information. If you have received this message in error, please notify the sender immediately by email reply and please delete this message from your computer and destroy any copies.

On Wed, May 23, 2018 at 12:38 PM, Michael A. Bernet <mbernet@bg.law> wrote:

Joe,

Does 4:30 pm eastern time tomorrow work for you?

Michael

BRUTZKUS GUBNER
Brutzkus Gubner Rozansky Seror Weber LLP

YOUR COUNSEL MATTERS®

Michael A. Bernet

Brutzkus Gubner Rozansky Seror Weber LLP

<21650 Oxnard St., Suite 500>
Woodland Hills, CA 91367-4911

www.bg.law

(818) 827-9000 Main
(818) 827-9170 Direct
(818) 827-9066 Fax
mbernet@bg.law



[Michael A. Bernet](#)

The preceding e-mail message is subject to Brutzkus Gubner Rozansky Seror Weber LLP's e-mail policies, which can be found at: <http://www.bg.law/disclaimer>

From: Joe Dunne <JD@liebowitzlawfirm.com>
Sent: Monday, May 21, 2018 2:28 PM
To: Imran Vakil <ivakil@nexiolaw.com>
Cc: Michael A. Bernet <mbernet@bg.law>; Richard Liebowitz <RL@liebowitzlawfirm.com>; Jeffrey A. Kobulnick <jkobulnick@bg.law>; Melody L. Evans <mevans@bg.law>
Subject: Re: Pereira: Motion to Suspend Proceedings (4293.019)

Counsel,

Let me know if you would like to set up a call to discuss your proposed Rule 41 Motion, or if you prefer to wait until the PHV is entered. I am available Wednesday and Thursday, until about 6:30 Eastern Time.

Joe Dunne, Esq

Liebowitz Law Firm, PLLC

11 Sunrise Plaza, Suite 305

Valley Stream, NY 11580

T: 516-233-1660

F: 516-612-2740

E. JD@liebowitzlawfirm.com

NOTICE: This email message and all attachments transmitted with it are intended solely for the use of the addressees and may contain legally privileged, protected or confidential information. If you have received this message in error, please notify the sender immediately by email reply and please delete this message from your computer and destroy any copies.

On Mon, May 21, 2018 at 4:23 PM, Imran Vakil <ivakil@nexiolaw.com> wrote:

Dear Michael,

Three comments:

1. We just filed a pro hac vice application (“PHV”) for Mr. Joe Dunn of Mr. Liebowitz’s office today. *See attached.* Our firm will be stepping exclusively into a [secondary] local counsel role. Mr. Dunn and/or Mr. Liebowitz will be the points of contact for substantive decisions.
2. Mr. Dunn will be circulating an email seeking to complete the meet and confer later this week, and likely for Wednesday. However, the PHV application may not be resolved by that time. At present, I expect that Mr. Dunn will conduct the 7-3 without my involvement. In the alternative, it may be helpful to “stay” the LR 7-3 until conclusion of that issue. Please let me know if you have any concerns and/or need me on the call.
3. Assuming that the parties are unable to resolve their differences during the meet and confer, the anticipated motion schedule will not work for me (again, subject to the PHV application). Specifically, I will be travelling June 3-9 without a computer. Assuming that (1) Defense moves forward with a motion filing early and (2) Mr. Dunn’s PHV application remains unresolved and/or is unable to obtain a CM/ECF login, then I’d propose that the parties either stipulate

to extend the response date and/or the motion hearing by an additional week. This can also be accomplished by filing any proposed motion on June 5 or thereafter, which would cause the hearing schedule to be moved to July 2, and giving me sufficient time to prepare an opposition, if necessary.

Imran F. Vakil

Office: (949) 478-6830

Fax: (949) 478-1275

[Schedule a call or meeting](#)

From: Michael A. Bernet <mbernet@bg.law>

Sent: Friday, May 18, 2018 1:32 PM

To: Imran Vakil <ivakil@nexiolaw.com>; Richard Liebowitz <RL@liebowitzlawfirm.com>

Cc: Jeffrey A. Kobulnick <jkobulnick@bg.law>; Melody L. Evans <mevans@bg.law>

Subject: Pereira: Motion to Suspend Proceedings (4293.019)

Dear Richard and Imran,

Pursuant to Local Rule 7-3, please let us know your availability within the next 7 days (other than Monday), to meet and confer regarding Defendant's anticipated filing of a Motion to Suspend Proceedings.

The motion will be based on Federal Rule of Civil Procedure 41(d), and will ask the court to suspend the proceedings until Plaintiff pays Defendant the sum of \$13,427.33 for its attorneys' fees and costs incurred in the New York case for work performed prior to the dismissal of that suit, and which work cannot be used in the pending California case.

Best regards,

Michael

BRUTZKUS GUBNER
Brutzkus Gubner Rozansky Seror Weber LLP

YOUR COUNSEL MATTERS®

Michael A. Bernet

Brutzkus Gubner Rozansky Seror Weber LLP

21650 Oxnard St., Suite 500

Woodland Hills, CA 91367-4911

www.bg.law

(818) 827-9000 Main

(818) 827-9170 Direct

(818) 827-9066 Fax

mbernet@bg.law

The preceding e-mail message is subject to Brutzkus Gubner Rozansky Seror Weber LLP's e-mail policies, which can be found at: <http://www.bg.law/disclaimer>